IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 28 of 2006

1. Public Service Commission Uttaranchal
   Haridwar, through its Chairman
2. Secretary, Public Service Commission
   Uttaranchal, Haridwar

.... Appellants

Vs

1. Rizwana Parveen D/o H.M. Shabir
   Hussain, Typing Institute,
   Shiv Mandir Marg
   Ranikhet, District Almora
2. Kalpana Patni, D/o Bahadur Dutt Patni
   Patni Bhawan, G.I.C. Road
   Chanmari, P.O. Lohaghat
   District Champawat
3. State, through Secretary Education
   Dehradun
4. Director of Education,
   Government of Uttaranchal,
   Mayur Vihar, Dehradun

... Respondents

Sri B.D. Kandpal, learned counsel for the State/appellants
Sri H.S. Bisht, learned counsel for the respondents

Hon'ble P.C. Verma
Hon'ble B.C. Kandpal, J.

This special appeal has been filed by the Public Service Commission, Uttaranchal challenging the correctness of the judgment and order dated 30th March, 2006 passed by learned Single Judge of this Court in Writ Petition No. 1218 of 2005 (S/S) Rizwan Parveen Vs Public Service Commission by which a writ of mandamus was issued directing the appellants to consider the appointment of the petitioner/respondents of the posts of Lecturer (Psychology) within a month, after obtaining the certified copy of the order.

2. Brief facts of the case giving rise to the present appeal are that the posts of Lecturers in various subjects

were advertised including the post of Lecturer (Psychology) by the Public Service Commission Uttaranchal. The respondent/petitioners applied for the post of Lecturer (Psychology) and they were called for interview and were interviewed. After the interview, the candidature of the petitioner/respondents were cancelled and the said cancellation order was challenged in the writ petition in which the impugned order dated 30.03.2006 has been passed.

3. The Rule known as U.P. Special Subordinate Education (Lecturers Grade) Service Rules, 1992 governs the recruitment and other service conditions and prescribes qualification for each post. Appendix B, Rule 8 of the said Rule from clause 1 to 3 reads as under:-

Sl. No.	**Name of post**	**Essential Qualification**	**Preferential Qualification**
1	2	3	4
1	Lecturer, Sociology, Geography, Economics, History, Civics, Physics, Chemistry, Mathematics, Psychology, English	A Post-Graduate degree in the respective subject of a University established by law in India or a degree recognized by the Government as equivalent thereto.	L.T. Division from a Government of recognized Training College or a Bachelor's Degree in Education of a University established by law in India
2	Lecturer Biology	A post-graduate degree in Botany or Zoology	Ditto
3	Lecturer, Education	A post-graduate degree in psychology or Education with LT Diploma from a Government or recognized Training College or a Bachelors, degree in Education of A University established by law in India Or A degree of Master of Education of a University established by law in India	

4. According to the said Rule a candidate applying for the post of Lecturer (Psychology) must possess the post-graduate degree in Psychology

recognized by Government as equivalent thereto and in this term the advertisement was issued.

5. Admittedly the respondent/petitioner No. 1 is M.A. in History and petitioner/Respondent No. 2 is M.Sc. in Chemistry and M.Ed, therefore, they were not eligible for the post of Lecturer (Psychology) as per Rules and as per advertisement. Learned counsel for the respondents sought to defend the order passed by the learned Single Judge of this Court by reading clauses (3) Appendix B i.e. Lecturer in Education which provides that a candidate must possess post-graduate degree in Psychology or Education with L.T. Diploma from a Government or recognized Training College or a Bachelors, degree in Education of A University established by law in India Or A degree of Master of Education of a University established by law in India.

6. Learned counsel for the respondents submitted that since the Psychology in post-graduate is appointed as Lecturer in Education, therefore vice-versa a post graduate in Education i.e. M.Ed. is also eligible to be appointed on the post of Lecturer in Psychology. This argument advanced by learned counsel for the respondents is misconceived as the Rules are very clear specifically relating to the post of Lecturer (Psychology). Both the subjects are different in nature, therefore, there qualifications cannot be equated. Learned counsel for the respondents submitted that in the Education Manual, there has been reference by the learned Single Judge of Intermediate Education Act which provides that for Psychology Teacher Intermediate for (Class 11-12) classes, the educations training is M.A. (Psychology) or M.Ed. and the preferential qualification is the trained. These regulations have been framed under Section 16(E)

of the Intermediate Education Act, 1921 for appointment of the teachers in the private aided colleges while these rules governing the lecturers of the Govt. College which is a different service from which the promotion is to be made from the D.I.O.S. and Deputy Director and the Joint Director in the Education Department. Therefore, the argument of learned counsel for the respondents that the status of the respondent/petitioners is para-materia, is misconceived. Section 16- H of the Intermediate Education Act, 1921 specifically provides that these regulations would no apply to the Government Colleges. Section 16-H of the said Act also provides exemption of certain classes of institution from the operation of certain sections which reads as under:-

> ***"Exemption of certain classes of institution from the operation of certain sections:-***
>
> *(1) The provisions of Sections 16-A, 16-B, 16-C,[sub section (2) to sub-section (13)] of Section 16-D and of Sections 16-E, 16-F and 16-G shall not apply to recognized institutions maintained by the State Government or the Central Government.*
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> *(2) In the case of recognized institutions maintained by a local body, the State Government may declare that all or any of the provisions referred to in sub-section (1) shall not apply subject to such alterations modifications or additions as it may make [and the provisions, if any, so made applicable, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force]."*

7. Thus, Section 16-A of the aforesaid Act and regulation framed in the said Act thereunder are exempted from its application to the recognized institutions maintained by the State Government or the Central Government. Thus, the provisions of regulation cannot be taken aid to hold that M.Ed. is also a

qualification for a Government Lecturer in Psychology subject.

8. Therefore, it is held that the petitioners were no eligible for the posts of Lecturer (Psychology) as they did not possess the requisite qualification as laid down in Schedule-B of the Rules. Thus, it is apparently clear that the petitioners were wrongly interviewed and when the defect was noticed, their candidature was rightly cancelled.

9. In View of the above, the writ petition is liable to be dismissed and is hereby dismissed. Accordingly, the judgment and order dated 3rd March, 2006 passed by learned Single Judge is hereby set aside.

10. The Special Appeal is allowed accordignlyl. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

May 19, 2006
R. Dang